

Kirk Russel Marsh

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Check your email. You will receive information and documents at this email address.

I am ☐ Petitioner ☒ Respondent
☐ Petitioner's Attorney ☐ Respondent's Attorney (Utah Bar #: _____)
☐ Petitioner's Licensed Paralegal Practitioner
☐ Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

___2nd___ Judicial District ___Davis___ County

Court Address _800 W State St Farmington UT _____

In the Matter of (select one)

- ☒ the Marriage of (for a divorce with or without children, annulment, separate maintenance, or temporary separation case)
☐ the Children of (to establish custody, parent-time or child support)
☐ the Parentage of the Children of (for a paternity case)

___Lauren R Marsh___
(name of Petitioner)

and

___Kirk Russel Marsh___
(name of Respondent)

Other parties (if any)

Memorandum Opposing Motion to

___Waive Mediation
Requirement_____

(name of motion)

☒ **Hearing Requested**

___184703031___
Case Number

___Edwards___
Judge

___Wilson___
Commissioner (domestic cases)

1. I disagree with the opposing party's Motion to
___waive mediation requirements_____ (name of motion)
because:

(Explain how you would like the court to rule on the opposing party's motion and why. For example, "I want the court to deny the motion because...")

See attached

2. The opposing party's motion is not supported by

☒ the relevant facts of this case

☒ the law

because:

(Explain why you disagree with the facts, or the law, or both presented by the opposing party's motion. List any statutes, ordinances, rules or appellate opinions that support your position and/or oppose the opposing party's motion.)

See attached

3. ☒ I request a hearing.

☐ I do not request a hearing.

Plaintiff/Petitioner or Defendant/Respondent

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ Fairfax VA _____ (city, and state or country).

Feb 28, 2025

Date

Signature ► *Kirk Russel Marsh*

Printed Name Kirk Russel Marsh

Attorney or Licensed Paralegal Practitioner of record (if applicable)

Certificate of Service

I certify that I filed with the court and am serving a copy of this Counterclaim on the following people.

Person's Name	Service Method	Service Address	Service Date
Kristy Hanson, Attorney for Lauren Zimmer	☐ Mail ☐ Hand Delivery ☒ E-filed/MyCase ☒ Email ☐ Left at business (With person in charge or in receptacle for deliveries.) ☐ Left at home (With person of suitable age and discretion residing there.)	Filing with mycase Email: kristy@mhmlawoffices.com	Feb 28, 2025
	☐ Mail ☐ Hand Delivery ☐ E-filed/MyCase ☐ Email ☐ Left at business (With person in charge or in receptacle for deliveries.) ☐ Left at home (With person of suitable age and discretion residing there.)		
	☐ Mail ☐ Hand Delivery ☐ E-filed/MyCase ☐ Email ☐ Left at business (With person in charge or in receptacle for deliveries.) ☐ Left at home (With person of suitable age and discretion residing there.)		

February 28, 2025

Date

Signature ► *Kirk Russel Marsh*

Printed Name Kirk Russel Marsh

In her *Ex Parte Motion to Waive Mediation Requirement or in the Alternative Compel Mediation and Memorandum in Support*, Petitioner Lauren Zimmer states “Petitioner has requested through counsel that Respondent participate in mediation. Respondent has refused unless Petitioner pays for the entirety of the costs associated with mediation, which is contrary to court orders. Petitioner requests the Court waive the requirement to mediate, or in alternative, compel the Respondent to participate in mediation in good faith and pay one-half of the upfront costs, so that a resolution may be reached.”

Life circumstances, religious ignorance, and this Court have led Lauren to believe that she can buy anything with money, including favorable legal outcomes. As Lauren has retained her *fifth* attorney to file bad-faith legal motions, Lauren again seeks to reaffirm her belief that rights are defined by net worth.

Lauren’s argument, addressed in this *Motion to Waive Mediation*, is that because Lauren has money and Russel does not, she should not be subjected to co-parenting, mediation, or Court decisions. Based upon ability to pay, Lauren asks for sole legal custody, no mediation, and final decision-making authority. Her grounds are that Russel cannot pay for mediation. Alternatively, should this Court retain the mediation requirement, Lauren asks this Court compel Russel to pay for mediation.

Lauren knows Russel has no income, and is therefore comfortable asking the Court to compel him to pay. Her filings, including her *Motion to Enforce*, suggest her expectation that the Court will order Russel’s parents to pay. If they do not, and Russel is unable, she will request sanctions including imprisonment for contempt of court orders, as she currently seeks. Either way, Lauren’s arguments, based upon Russel’s inability to pay, seek to unconstitutionally deprive Russel or his parents of constitutional rights, including, but not limited to, parental rights and freedom.

MEMORANDUM

1. Lauren currently requests mediation for the following:
 1. Failure to fulfil financial obligations including child support, out-of-pocket insurance premiums, and medical expenses.

2. Failure to abide by the communication provisions in the Supplemental Decree and Amended Supplemental Parenting Plan, specifically failing to respond in a timely manner to Lauren's requests to co-parent.
3. Failure to promote a positive relationship between each of the children and the other parent and failing to limit communication to information regarding the children in a respectful manner.

2. Lauren requests to mediate for "failure to fulfil financial obligations including child support, out-of-pocket insurance premiums, and medical expenses."

- a. As Lauren and this Court are aware, Russel does not have the ability to fulfill the financial obligations ordered by this Court; the orders were given with the expectation that Russel's *parents* (Kirk and Shawnee Marsh) would pay the obligation. In some instances, Russel's parents were directly ordered obligations by this Court.
- b. Kirk and Shawnee Marsh are no longer willing to fulfill financial obligations on Russel's behalf that were ordered illegally and outside of the jurisdiction of this Court.
- c. Kirk and Shawnee Marsh still fulfill financial obligations that were illegally ordered directly upon them, despite being outside of the jurisdiction of this Court.
- d. Lauren's argument, that Russel should lose parental rights because he cannot pay for mediation, is a circular argument, as she seeks mediation because he cannot pay.

3. Lauren requests to mediate "failure to abide by the communication provisions in the Supplemental Decree and Amended Supplemental Parenting Plan, specifically failing to respond in a timely manner to Lauren's requests to co-parent."

- a. Lauren has never requested to co-parent.
- b. The court-appointed reunification counselor, Dana Emmons, facilitated Lauren's unwillingness to co-parent.

- c. In her *Petition to Modify Decree of Divorce* Lauren makes false statements concerning co-parenting. Please see Russel's *Memorandum Opposing Petitioner's Motion to Modify Decree of Divorce*.

4. Lauren requests mediation for “failure to promote a positive relationship between each of the children and the other parent and failing to limit communication to information regarding the children in a respectful manner.”

- a. Parental alienation was a focus of reunification therapy.
- b. Russel has graciously provided audio recordings of the discussions.
- c. Russel's communications from Lauren consists of Lauren's money grabs, demands, and schedule.
- d. When Russel communicates his concerns for the children, he is threatened with contempt of court, losing parent time, or being subjected to further reunification therapy.

5. Lauren is honest in one statement of her *Ex Parte Motion to Waive Mediation Requirements*: Mediation is not likely to resolve these issues.

DATED this 28th day of February, 2025

Kirk Russel Marsh

Kirk Russel Marsh, Respondent

RELEVANT BACKGROUND INFORMATION

When Lauren filed for divorce, she demanded Russel surrender his parental rights. Because Russel refused, Lauren called him abusive. A recorded phone call from prison on May 23, 2019 went as follows:

Russ: Lauren, how did I treat you and the girls?

Lauren: Sadly, sadly, you treated us terribly - you want to know why? Because you left us to be traumatized and abused and you've been gas-lighting me for the last year.

Russ: I have not been abusing you, Lauren.

Lauren: No, you have been abusing me, okay? So, you have been, because you've been terrible to me throughout this entire process. Instead of saying, 'You're right, I totally understand why you would want to divorce me and I am willing to work with you and thank you for being so reasonable in the ways you've done this' you have freaked out!

Russ: You asked me to give up legal and physical custody with the girls, with essentially no recourse. You're asked me to go through -

Lauren: Russ, you left us! So you don't care!

In her *Affidavit of Lauren Marsh in Support of Motion to Bifurcate and Waive Mediation*, Lauren asked the Court to waive any further mediation requirement as she had "taken all reasonable steps to fulfill this requirement." Lauren's "reasonable steps" to mediation, in which she claims Russel wanted to "stay together" but she "had no interest in reconciliation," did not include mediation, but instead one meeting with the parties and counsel. Lauren testified "I will not penetrate the privacy of those negotiations but I will

state that this meeting lasted about three hours and fulfilled the purpose of mediation.”

Lauren stated “respondent seems much more interested in extending this action and remaining married rather than moving this action forward.” In this statement, Lauren fails to acknowledge that Russel was interested in protecting the interests of his children. Because Lauren was consumed with her own interests, she advocated for her demands above all else. Although the Court’s only evidence was Lauren’s testimony that the ‘purpose of mediation was fulfilled’ the Court waived the mediation requirement and Lauren was granted a Bifurcated Decree of Divorce.

Mediation has become another method by which Lauren can strong-arm her will, as she can refuse to compromise and outspend Russel to force her demands.

COUNTERCLAIMS

Because Lauren has money and Russel does not, Lauren can threaten mediation for any dispute, causing Russel to (1) give in to her demands or (2) ask his parents to pay or (3) refuse mediation resulting in legal action.

- a. Russel has been forced into all three of the above situations.
- b. He has repeatedly given into Lauren’s demands because he cannot afford mediation.
- c. The times Kirk and Shawnee consented to pay for mediation, Lauren refused to compromise. Russel was forced to give into Lauren’s demands rather than ask his parents to pay for additional hours of mediation in which Lauren would not mediate.

d. Because, in December 2024, Russel (having no ability to pay himself) agreed to mediation only if Lauren would pay, Lauren brought before the Court a petition to remove his parental rights.

e. Because Russel is an indigent pro se litigant, he is subject to abuses of due process such as illegal dismissal of petitions.

WHEREFORE, Russel requests the following as court orders herein:

1. that Russel is given final decision making-authority after a fair and full discussion with Lauren.
2. If the Court declines to waive the mediation requirement, that Lauren is ordered to pay the full cost of mediation.
3. that the Court enter findings that Russel has prevailed.
4. that the Court order sanctions against Lauren for her bad-faith filings, as the Court sees fit.